

IN THE U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

SANDRA C. TORRES, Individually	§	
and as Mother and Representative of	§	
the Estate of Decedent, E.T. and as	§	
Next Friend of E.S.T., Minor Child;	§	
ELI TORRES, JR.; and JUSTICE	§	
TORRES,	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CASE NO. 2:22-cv-00059-AM-VRG
	§	
DANIEL DEFENSE, LLC, ET AL.,	§	
	§	
<i>Defendants.</i>	§	

DANIEL DEFENSE, LLC’S:
(1) UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMITS, AND
(2) AGREED MOTION TO EXTEND RESPONSE AND REPLY DEADLINES

TO UNITED STATES MAGISTRATE JUDGE VICTOR R. GARCIA:

Now comes Defendant Daniel Defense, LLC f/k/a Daniel Defense, Inc. (“Daniel Defense”) and files this: (1) Unopposed Motion for Leave to Exceed Page Limits, and (2) Agreed Motion to Extend Response and Reply Deadlines. Daniel Defense requests leave to file their Amended Rule 12(b)(6) Motion to Dismiss in excess of the Local Rules’ page limits. *See* Ex. 1. Counsel for Daniel Defense and Plaintiffs have conferred, and Plaintiffs take no position on this request. *See* Ex. 2. Further, the parties have agreed to extend Plaintiffs’ deadline to file their Response to Daniel Defense’s Amended Rule 12(b)(6) Motion, by two weeks, to April 6, 2023 and to extend Daniel Defense’s deadline to file their Reply, by one week, to April 20, 2023. Daniel Defense respectfully shows as follows.

II. BACKGROUND

Plaintiffs filed their Original Complaint on November 28, 2022. Doc. 1. On February 14, 2023, Daniel Defense filed its Unopposed Motion for Leave to Exceed Page Limits for its original Rule 12(b)(6) Motion to Dismiss. Doc. 22. Daniel Defense moved to dismiss all of Plaintiffs claims against it based on the Protection of Lawful Commerce in Arms Act (15 U.S.C. § 7901 *et seq.*) (the “PLCAA”). Doc. 25. The Court granted Daniel Defense leave to file its Rule 12(b)(6) Motion. Doc. 24.

On February 23, 2023, Plaintiffs filed their First Amended Complaint. Doc. 26. Plaintiffs included additional allegations and an additional claim against Daniel Defense. *Id.* Daniel Defense now seeks to file its Amended Rule 12(b)(6) Motion in response to these arguments.

III. DANIEL DEFENSE’S UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMITS

Daniel Defense’ Rule 12(b)(6) Motion addresses both the arguments raised in Plaintiffs’ Original Complaint as well as the additional allegations raised in their First Amended Complaint, including that their claims are not barred by the PLCAA based on the statute’s negligence per se exception. Local Rule CV-7(c)(2) limits discovery/case management motions to ten pages and all other motions, including dispositive motions, to twenty pages. The captions, signature block, accompanying certificates, and documents are not counted against the page limit. *Id.* Daniel Defense’s original Rule 12(b)(6) Motion to Dismiss was 27 pages (the Introduction, Background, Arguments and Conclusion). Responding to the additional allegations, Daniel Defenses’ Amended Motion is 44 pages. Given the importance of the issues and significance of the underlying case,

Daniel Defense respectfully requests it be granted leave to file its motion to dismiss.¹ Again, Plaintiffs take no position on Daniel Defense's request for leave and, Daniel Defense has advised opposing counsel it will not oppose a comparable extension of the page limits for Plaintiffs' response should they request it.

**IV.
DANIEL DEFENSE'S
AGREED MOTION TO EXTEND RESPONSE AND REPLY DEADLINES**

Counsel for Daniel Defense and Plaintiffs have also conferred with respect to the respective response and reply deadlines. Under Local Rule CV-7(d)(2), Plaintiffs deadline to respond to Daniel Defense's Amended Rule 12(b)(6) Motion is two weeks. Daniel Defense's deadline to file its reply deadline is seven days. Loc. R. CV-7(e)(2). Daniel Defense and Plaintiffs have agreed to extend these deadlines. Plaintiffs' Response will be due on April 6, 2023 and Daniel Defense's Reply will be due on April 20, 2023. Daniel Defense respectfully requests the Court enter an order formally extending these deadlines.

**V.
CONCLUSION**

WHEREFORE, Defendant Daniel Defense, LLC respectfully requests the Court: (1) grant Daniel Defense leave to file its Amended Rule 12(b)(6) Motion to Dismiss and instruct the Clerk to file said motion (attached as Exhibit 1) pursuant to Local Rule CV-7(b), and (2) extend Plaintiffs' deadline to file their response to said motion to April 6, 2023 and extend Daniel Defense's deadline to file their reply in support of said motion to April 20, 2023.

¹ The arguments raised in this motion will likely be relevant to other cases pending before the Court arising out of the Uvalde school shooting. The plaintiffs in *Jasmine C. et al. v. Daniel Defense, LLC et al.*, No. 2:23-cv-00014-AM (Jasmine C.) and *Christina Zamora et al. v. Daniel Defense, LLC et al.*, No. 2:23-cv-00017-AM ("Zamora") assert similar arguments for why their claims against Daniel Defense are not barred by the PLCAA. See *Jasmine C.*, Doc. 14, ¶¶189-211 (claims against Daniel Defense); see *Zamora*, Doc. 1 ¶¶ 224-247 (claims against Daniel Defense).

Respectfully submitted,

/s/ David M. Prichard

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***COUNSEL FOR DEFENDANT,
DANIEL DEFENSE, LLC F/K/A
DANIEL DEFENSE, INC.***

CERTIFICATE OF CONFERENCE

I certify that I conferred with opposing counsel on March 9, 2023 concerning Daniel Defense, LLC's motion. Plaintiffs' counsel does not oppose Daniel Defense, LLC's request to file its Amended Rule 12(b)(6) Motion in excess of the page limits in the Local Rules. Counsel for Plaintiffs and Daniel Defense, LLC agree that Plaintiffs' response to said motion shall be due on April 6, 2023 and that Daniel Defense's reply in support of said motion shall be due on April 20, 2023.

/s/ David R. Montpas

David R. Montpas

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March 2023, I served the following counsel of record through electronic service as authorized by the Federal Rules of Civil Procedure:

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